

FROM:

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Fax

To: Commissioner for Patents Attn: Examiner Robert M. Kunnemund Art Unit 1765	From: Walter M. Douglas
CC:	Pages: 41 Including Cover
Fax No. 103-872-9300 571-272-4465	Date: March 19, 2004
Re: US application 09/729,882	
Docket Number: Cotteverte 2-1-1-1	
Please contact Terri Gustin at (607) 248-1318 if all pages of this transmission are not received.	

Please find to follow cover:

40 pages of Response

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H:\Walter Faxes\PTO amendment fax.doc

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor:	Jean-Charles J.C. Cottteverte, et al.	Docket No.	Cotteverte 2-1-1-1
Serial No:	09/729,882	Group Art Unit:	1765
Filing Date:	12/5/2000	Examiner:	Robert M. Kunermund
Title:	Method of Making An Integrated Optical Circuit		

Assistant Commissioner for Patents
Washington, D.C. 20231

**CONSIDERATION TO WITHDRAWAL
HOLDING OF ABANDONMENT UNDER 37 CFR 1.181**

Sir:

Applicants have received Notice that the above-identified application became abandoned for failure to file a timely reply to the Office Action mailed May 30, 2003. The Notice of Appeal due date was June 20, 2003 and the Statutory Bar Date was September 2003.

Applicants hereby requests reconsideration for reinstatement due to a Patent Office error. Applicants also request Grant of this application in view of the Appeal Brief that was filed.

1. Petition fee

Applicants request waiver of the Petition Fee under 37 C.F.R. 1.17(h) on the grounds that the request for reinstatement herein is necessitated by a Patent Office error.

However, in the event that a Petition Fee is required, the Commissioner is authorized to charge the required fee of \$130.00 in accordance with 37 C.F.R. 1.17(h) to Deposit Account No. 03-3325.

2. Facts and Argument

Applicants first became aware that the Examiner did not receive the Notice of Appeal or the Appeal Brief when applicants received the Notice of Abandonment mailed on March 10, 2004 (copy attached as Exhibit 1). This Notice indicates that this application became abandoned for failure to timely file a proper reply to the Office letter mailed 6/2003. Applicant's immediate interpretation of this Notice of Abandonment for failure to respond to

an Office Action is that Applicants' response was not received by the Patent Office or became lost in the Office. In fact, applicant did respond to the Office Action, received an Advisory Action, Filed a Notice of Appeal and filed an Appeal Brief.

Applicants submit the following documents as evidence of having timely followed all procedures in order have the application reviewed upon appeal.

1. Attached hereto as Exhibit 2 is a copy of applicants' response to the Office Action of March 20, 2003 which was sent by facsimile on May 19, 2003 and the Confirmation Page returned by the Patent Office indicating receipt.
2. Attached hereto as Exhibit 3 is a copy of Advisory Action, Paper No. 9, dated May 30, 2003.
3. Attached hereto as Exhibit 4 is a copy of Notice to Appeal dated June 18, 2004. The Notice of Appeal was sent by facsimile. The Notice to Appeal was received June 18, 2004 as evidenced by the Auto-Reply Facsimile Transmission System notice that was returned.
4. Attached hereto as Exhibit 5 is a copy of applicants' Appeal Brief for the above referenced application. The Appeal Brief was filed with the Patent Office on August 13, 2003 via Express Mail. The Appeal Brief was received as evidenced by the stamped returned postcard from the PTO, dated August 13, 2003.
5. In addition to the foregoing, attached as Exhibit 6, applicants submit the following as further proof of the filing the previously mentioned documents
 - (a) Copies of the E-mail dated January 19, 2004 to TC 1700 making inquiries to verify the status of the Appeal Brief that was filed August 13, 2003. No response from TC 1700 was ever received.
 - (b) Applicants inquiry in the Public PAIR system for the status of the Appeal Brief. Applicants found that the application had been transferred to TC 2800.

Applicant then submitted by a request to TC 2800 via E-mail on February 2, 2004 to check the status of the above referenced application. Applicant did receive a response from Linda M. Hodge Taylor stating that the file still belonged to TC 1765, but was being housed in 2800. In her response she asked Nicky, no last name was given though she appears to be a manager in 1700, to follow up on our request for the status of the Appeal Brief. A copy of this E-mail is enclosed as evidence, Exhibit 7. In addition, please note the PALM System page that was included in the E-mail indicating that the Notice of Appeal was filed. No date was provided.

Therefore, in view of the foregoing documentation submitted herewith, applicants submit that all responses and appeals were timely made. Accordingly, applicants respectfully request that the Decision of Abandonment be withdrawn for the above-entitled application. In addition, in view of applicants comments submitted in the Appeal Brief, applicants request that the application be allowed to Issue.

19 March 2004
Date

CERTIFICATE OF TRANSMISSION	
UNDER 37 C.F.R. § 1.8	
I hereby certify that this paper and any papers referred to herein are being transmitted by facsimile to the U.S. Patent and Trademark Office at 571.272-1465 on: 103-872-4306	
<u>19 March 2004</u> Date	
<u>Walter M. Douglas</u> Walter M. Douglas	<u>19 March 2004</u> Date

Respectfully submitted,
CORNING INCORPORATED

Walter M. Douglas
Walter M. Douglas
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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,882	12/05/2000	Jean-Charles J.C. Cotteverte	Cotteverte 2-1-1-1	6768
22928	7590	03/10/2004	EXAMINER	
KUNEMUND, ROBERT M				
CORNING INCORPORATED			ART UNIT	
SP-TI-3-1			PAPER NUMBER	
CORNING, NY 14831			1765	

DATE MAILED: 03/10/2004

Received

MAR 16 2004

Patent Dept.

Please find below and/or attached an Office communication concerning this application or proceeding.

MAR 16 2004

vmp


SAR- 4/10/04
Abandonment

Notice of Abandonment	Application No.	Applicant(s)	
	09/729,882	COTTEVERTE ET AL.	
	Examiner	Art Unit	
	Robert M Kunemund	1765	

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address-

This application is abandoned in view of:

- ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 6/2003
 - ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - ☒ No reply has been received.
- ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - ☐ The submitted fee of \$ _____ is insufficient. A balance of \$ _____ is due.
The issue fee required by 37 CFR 1.18 is \$ _____. The publication fee, if required by 37 CFR 1.18(d), is \$ _____.
(c) ☐ The issue fee and publication fee, if applicable, has not been received.
- ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - ☐ No corrected drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below:


ROBERT KUNEMUND
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

05/19/03 16:38:18

USPTO->

6879742407 RIR FAX

Page 001

TO:Auto-reply fax to 6079742407 COMPANY:

Exhibit 2

Auto-Reply Facsimile Transmission



UNITED STATES
PATENT AND
TRADEMARK OFFICE

TO:

Fax Sender at 6079742407

Fax Information

Date Received:

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6 (including cover page)

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Received
Cover
Page
=====>

FILE No. 902 05/19 '03 14:57 ID:CORNING PATENT DEPT FAX:6079742407 PAGE 1	
<p>FROM: Dr. Walter M. Douglas Senior Patent Attorney Corning Incorporated SP-711-05-01 Corning, NY 14831 Telephone: +1 607 574-2431 Facsimile: +1 607 574-3848 E-mail: douglawm@corning.com</p>	
<p>PRIVILEGED & CONFIDENTIAL</p>	
<p>Fax</p>	
<p>To: Examiner Charlotte A. Brown After Final Response Commissioner for Patents Group Art Unit 1765</p>	<p>From: Walter M. Douglas</p>
<p>CC:</p>	<p>Pages: 6 including Cover</p>
<p>Fax No. 703-672-9511</p>	<p>Date: May 19, 2003</p>
<p>Re: After Final Response US Application No. 08/729,982 filed 12/5/00</p>	
<p>DocId: 300 000000 2-1-1-1</p>	
<p>TITLE: METHOD FOR MAKING AN INTEGRATED OPTICAL CIRCUIT</p>	
<p>Please contact Terri L. Gustin at 607-248-1318 if all pages of this transmission are not received.</p>	
<p>Please find attached:</p>	
<p>6 pages of After Final Response</p>	
<p>Sincerely, Walter M. Douglas Sr. Patent Attorney</p>	
<p>CONFIDENTIAL AND PRIVILEGED NOTICE</p>	
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Fax

To: Examiner Charlotte A. Brown After Final Response Commissioner for Patents Group Art Unit1765	From: Walter M. Douglas
CC:	Pages: 6 Including Cover
Fax No. 703-872-9311	Date: May 19, 2003
Re: After Final Response US Application No. 09/729,882 filed 12/5/00	
Docket No: Cotteverte 2-1-1-1	
Title: METHOD FOR MAKING AN INTEGRATED OPTICAL CIRCUIT	

Please contact Terri L. Gustin at 607-248-1318 if all pages of this transmission are not received.

Please find attached:

6 pages of After Final Response

Sincerely,

Walter M. Douglas
Sr. Patent Attorney

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